

SHD Paraphrased Regulations - Food Stamps

320 ABAWD

321-1

An individual who is not exempt under §63-410.3 shall be ineligible for FS if, during the 36-month period identified in §63-410.1, that individual received FS for three months or more without meeting the participation requirements of §63-410.2 or the exemption criteria of §63-410.3. Months in which FS benefits are received for part of the month shall be counted toward the three-month limit. Effective February 1, 2000, counties shall provide written information at application and recertification which outlines the requirements contained in this section. (§63-410, as revised effective February 1, 2000)

The 36-month period described above begins December 1, 1996 for FS recipients subject to the ABAWD requirement on that date. For all other individuals, the 36-month period begins on the first day of the first full calendar month such individuals become subject to the ABAWD work requirement. (In either case, the 36-month period is fixed. It continues uninterrupted regardless of whether the individual becomes exempt or leaves the FS program.) (§§63-410.11 and .12)

321-1A

A person is considered to have received FS, for purposes of the ABAWD program, when the person receives coupons in the mail, or when Electronic Benefit Transfer benefits are credited to the person's account. In an over-the-counter system, the person's failure to pick up the coupons makes that month a month of non-receipt of FS benefits for ABAWD purposes. (All-County Information Notice No. I-76-00, July 26, 2000, Question 2-2C)

321-2

The following individuals are exempt from the ABAWD work requirement:

1. Persons exempt from the work registration requirements in §63-407.21.
2. Persons who are under 18 or 50 years of age or over; or pregnant; or any adult living in a household (i.e., the FS household) that contains a dependent child.
3. Persons living in any portion of the state which has received Federal approval to waive application of the ABAWD work requirement.

(§§63-410.31, .32, and .33, modified November 6, 1997; and revised February 1, 2000; All-County Information Notice No. I-76-00, July 26, 2000, Question 14)

321-2A

Individuals are exempt from the ABAWD work requirement if they live in an FS household which contains excluded household members under age 18. (All-County Information Notice No. I-04-02, January 11, 2002, Answer 1, referencing §63-410.323)

321-3A

It is the CDSS position that notwithstanding the granting of ABAWD waivers by the federal government for certain portions of the state, it is up to each county with waiver

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authority to determine whether to "accept" the waiver and exempt individuals in the county from the ABAWD requirements in accord with §63-410.33. (All-County Letter No. 97-23, April 16, 1997, interpreting §63-410.33)

321-4

The ABAWD work requirement is fulfilled by:

1. Working 20 hours or more per week (averaged monthly). The CDSS has interpreted this regulation to require 80 hours of work in a month. (All-County Information Notice (ACIN) No. I-76-00, July 26, 2000, Question 4) Effective February 1, 2000, regulations require that the FS recipient shall submit documentation verifying the hours worked.
2. Participating in a workfare program as defined in 7 United States Code (USC) §2029 (FS Act §20) or in a comparable program. Effective February 1, 2000, this includes workfare job search as set forth in §63-407.841(b)(1)(A). It may also include a General Assistance workfare program. (ACIN No. I-76-00, Question 6)
3. Participating in an allowable "work program" for 20 hours or more per week (averaged monthly). Such work program is a program under the JTPA; a program under 19 USC 2296 (Trade Act of 1974 §236); or a program of employment and training approved by a state agency, including the FSET program described in §63-407.8, and refugee employability services identified in 45 Code of Federal Regulations §400.154.

(§63-410.21 November 6, 1997, and revised effective February 1, 2000, per §63-032.1)

321-4A

For purposes of meeting the ABAWD requirements, hours spent in job search or job search training activities as part of an employment and training program shall not count toward completion of the ABAWD work requirement. (§63-410.213(c)(1)) However, time spent in job search activities which are part of a workfare assignment under FS Act §20(e) or under the JTPA do count toward completion. (All-County Letter No. 97-08, February 19, 1997)

321-4B

Prior to February 1, 2000, in determining whether the ABAWD work requirement of working 20 hours per week, averaged monthly, has been met, those hours worked in unsuitable employment, as defined in §63-407.711 and .712, shall not be counted. (§63-410.211(a)) The reference to "unsuitable employment" was deleted effective February 1, 2000, but effective that date the FS recipient was required to submit documentation verifying the number of hours worked.

"Hours worked for in-kind income shall count toward the 20-hour weekly minimum if the food stamp recipient provides documentation, such as pay stubs, verifying that the in-

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kind income being reported was an actual benefit received from the employer." (§63-410.211(b))

321-5

An individual denied eligibility for failing to satisfy the ABAWD work requirement may regain eligibility if, during a 30-day period, the individual works for 80 or more hours, or participates in a workfare assignment, or participates in an allowable work program as defined in §63-410.213 for at least 80 hours. (§63-410.51)

321-5A

Effective February 1, 2000 when an applicant regains eligibility by completing a workfare assignment during the 30-day application period, benefits shall be issued back to the date of application. (§63-410.512(a))

A workfare assignment need not require 20 hours weekly participation for the ABAWD requirement to be satisfied. Monthly hours of workfare participation are determined by dividing the household's FS allotment by the higher of the Federal or state minimum wage. If this division results in an average of fewer than 20 hours per week, the ABAWD requirement is still considered met if the recipient successfully participates for that number of hours in the workfare assignment. (All-County Letter No. 97-08, February 19, 1997)

321-6

When, during the 36-month period specified in §63-410, an individual stops performing the ABAWD work requirement after regaining eligibility in accord with §63-410.5, that person shall remain eligible for a period of three consecutive months (on a one-time only basis), beginning on the date the individual notifies the county that he/she is not satisfying the ABAWD work requirement. (§63-410.52) The three-month period of eligibility in §63-410.52 is available to an individual only once during the 36-month period. (§36-410.521)

321-6A

The three "free" consecutive months, referenced in §63-410.52, to which the recipient is entitled following a failure to satisfy the ABAWD work requirement, do not include months in which FS benefits are not transacted. (All-County Letter No. 97-08, February 19, 1997)

321-6B

"A county shall issue food stamps when an individual identified in §63-410.521 begins satisfying the ABAWD work requirement. If the individual remains eligible, benefits shall be issued until the county learns that the ABAWD requirement is no longer being met." (§63-410.523)

The county should not delay issuance of FS benefits until after determining whether the ABAWD requirement has been met. Rather, benefits are to be issued prospectively until

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the county learns that the ABAWD work requirement is no longer being met. (Final Statement of Reasons, ORD #1296-48, December 8, 1997, explaining §63-410.523)

321-7

When the county determines that an individual has failed to meet the ABAWD work requirement for three months during the 36-month period specified in §63-410.1, the county shall issue a timely notice of action (NOA) in the third month to discontinue that individual's FS benefits. In addition to the requirements of §63-504.21, the NOA shall:

- (1) Identify the reason the individual's FS are being discontinued.
- (2) List those months the ABAWD work requirement was not satisfied.
- (3) Explain that the individual may present evidence to show that he/she met the work requirement in any of those months in (2) above.
- (4) Explain how the individual may regain eligibility in accord with §63-410.5.

(§63-410.4)

321-8

Determinations of ineligibility for FS shall be made when the county becomes aware, during the three "free" months during which the individual has failed to meet the ABAWD work requirements, that the individual is neither fulfilling the work requirements, nor exempt from those requirements (§63-410.44)